

CETA, Trump and "Enemies of the People"

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What a week... On Thursday, the High Court of Justice in England and Wales has ruled that the UK government cannot push the Brexit button all by itself but has to involve Parliament instead. In reaction to that, the British tabloid press has revealed what stuff parts of the Brexit movement are actually made of. My thoughts about the instantly notorious North-Korean-style "Enemies of the People" headline of the Daily Mail and what this, as part of a larger phenomenon of rampant anti-constitutional populism, bodes for the future of constitutional democracy is [here](#) (and, in German, [here](#)).

The High Court judgment is an interesting piece of jurisdiction: JO MURKENS of the LSE explains the "[lesson in constitutional law](#)" the government has been taught by the Court, Edinburgh EU law expert TOBIAS LOCK reflects on the political [ramifications of the judgment](#), and ROMAN KAISER of Augsburg University looks at [the judgment in the context of European law](#) (in German).

Other member states should learn from the Article 50 mess the UK is going through right now and [clarify their own constitutional requirements](#) for withdrawal from the EU, argues OLIVER GARNER of EUI – not to use it but to start a conversation between political actors and civic stakeholder why we engage in European integration at all, und to which limits.

Trump or Clinton?

Next week, of course, will be under the spell of the US presidential elections.

There is no lack of doom-and-gloom scenarios in the case of a Donald Trump victory, most of them highly plausible. I have called SANFORD LEVINSON a few days ago, a luminary of liberal constitutional law in the US and one of the fiercest critics of the defects of the US Constitution, [to talk about what lies ahead](#). He fears that even in the case of a Hillary Clinton victory, the nightmare is not yet over: Unless the Democrats win also the House and the Senate back, the American frustration about the inability of the political system to pass meaningful legislation and fix big problems like immigration or climate change will only rise.

Not a jolly read, but these are the times we live in (in German [here](#)).

CETA and Poland

The Federal Republic of Germany is a peculiar not only because of its unique kind of federal structure but also because very few people in Germany care about federalism at all: In most parts of Europe, regional autonomy or even separatism movements are shaking up the system – not so in Germany. When it comes to the competence order of Bund and Länder, the German people, so it seems, couldn't care less.

That changes only when the Länder are in a position to block some legislation in the Bundesrat. Whether or not they can do that in the hotly contested issue of CETA ratification is a big debate right now. MATTHIAS RUFFERT, EU law professor at the Humboldt University, finds that there is [no reason to involve the Bundesrat](#) in this case (in German).

On the supranational level, the European Union now has to make up its mind how to react to recalcitrant Poland's refusal to heed the recommendations issued by the Commission in the ongoing constitutional conflict. Should the Commission play nice or hardball? According to LAURENT PECH, EU law professor of the University of Middlesex, the Commission has [no other choice but to launch the Art. 7 sanction procedure](#) – if only to force the member state governments to finally live up to their own responsibilities.

All best and take care,

Max Steinbeis

